

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, WILL HOLD A SPECIAL COUNCIL MEETING IN THE THIRD
FLOOR ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON FRIDAY,
AUGUST 10, 2007 AT 10:30 a.m.**

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 10:30 a.m. The meeting opened with the Lords Prayer and the Pledge of Allegiance.

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Schmidt, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Blevins, Mr. Zurschmiede and President Larry Kochert. Mr. Messer was absent.

OTHERS: Council Attorney Jerry Ulrich and Deputy City Clerk Mindy Milburn.

ALSO: Mayor James Garner, Jerry Taylor & Brian Dixon EMC, Sewer Board Attorney Greg Fifer, City Attorney Shane Gibson, Union Representative Micky Thomason, Building Commissioner Ron Hartman, and Board of Works member Matt Denison

COMMUNICATIONS – PUBLIC:

Pat Harrison stated that she has some concerns over the sewer bills from the past five years and stated that they passed out literature to the Council and wanted to know if the could get relief for these bills.

Mr. Price told her that she would have to go to the Sewer Board for the billing issues.

Ms. Harrison stated that regarding the contract she felt like Mr. Zurschmiede had good reason to go with the contract that they agreed to with EMC and he made it clear to their body that the money that was going to be used as a solution for the issues that they were having with the sewer bills. She stated that she is looking at this like a business owner and she is looking at the bottom line and this contract is saving the City a lot of money. She stated that now it is being diluted and adding attorney fees and she believes that they should go with EMC

Jerry Taylor EMC stated that there are three events that could happen based on their decision today. Attorney fees that will have to come from rate payers, the fact that the Stormwater Board will fight this and it will come with a cost and that cost will be pipes, gravel, sand etc that they need to do the work that they are tasked to do by the board, and finally there will be a lot of strife within the boards that are made up of diligent people who were entrusted with these decisions. He stated that this telling these two committees now and present that the work that they do is unnecessary and if they want to make changes do so for the future and guide them but not to take it out of the hands of the individuals that have spent so much time working towards a solution.

COMMUNICATIONS – CITY OFFICIALS:

Mr. Coffey congratulated the New Albany Little League for how far they made in to the Little League World Series.

Greg Fifer stated that he wanted to take the opportunity to address the board on behalf of the Sewer Board. He passed out several handouts outlining IC codes and he explained that he would have no problem with a legal battle if their reason had any weight. He stated that Mr. Ulrich referenced a limitation of \$75,000 and he was unable to find anything other than a public works statute and he believes this is inapplicable to the EMC contract and went over the statute with the Council and his argument for why it doesn't apply in this situation. He explained that the second argument he has heard is under 36-4-8-12 subsection B which he stated would be valid if it was funded by a tax rate but that is not applicable because the Council created the Sewer Utility as a separate subdivision and entrusted it with all of its user fees and pledged to them some tax revenues. He stated that the sewer revenues are more than sufficient on an annual basis to pay for the EMC contract and to not supersede the income. He stated that he knows of no other argument that was raised concerning the validity of the contract and he would be happy to discuss with them if anyone has any other. He explained that even if a bid was required it would not be a hard dollar bid contract, but they would seek a request for qualifications and/or a proposal, and the amount of money would be one consideration to award the contract because professional services are a different animal and there is no basis to void this contract at this time and they will be throwing money down a hole if they go through with this.

Mrs. Crump stated that she would like to hear Mr. Ulrich's response to what Mr. Fifer had stated.

Mr. Ulrich stated that he would rather not debate this in public and regards to the sewer utility, EMC had been doing certain jobs that sound like a public work to him.

Mrs. Crump stated that she based her vote on the advice of the statements made by the Council's attorney and asked **if** it is still his opinion that they should void the contract.

Mr. Ulrich stated yes and he didn't want to discuss the issues as a matter of legal strategy.

COMMUNICATIONS – MAYOR:

Mayor Garner stated that EMC has not done any work up to the \$75,000 limits so they are not disposed to bid it out. He gave a handout to the council breaking down the price ranges with four different companies and stated that the Sewer Board has worked very diligently to do the best job that they can and the Council entrusted this job to the board and now they are all listening to rumors and lies. He stated that the board was set up to

make informed decisions and that is what they have done to get rates down, make needed repairs, and establish a relationship with the EPA. He explained that they can't go in and change the rules in the middle of the game and in his opinion they will be wasting money on attorneys and the board acted with valid reasons.

Mr. Schmidt read the following statement into record:

"I have always admired and complimented the work that EMC has done for New Albany. The discussion today is about the required bid process. I have reviewed Indiana Code, New Albany ordinance G-06-20 and the Indiana State Board of Accounts Manual. We are being questioned about the recent process used to award contracts for New Albany. It appears that the decisions regarding the recent contracts need to be made by a higher authority."

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: READING

R-07-30	A Resolution Relating to Contracts for the Operation of the New Albany Waste Water System And the New Albany Storm Water System By the Common Council of the City of New Albany	Coffey 1
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Mr. Coffey moved to introduced R-07-30, Mr. Price second, the resolution passes with every one voting yes except Mr. Kochert and Mr. Zurschmiede who voted no.

Mr. Zurschmiede stated that he thinks this is a complete waste of tax payer's dollars and he will not let the citizens forget who voted to override the Mayor's veto

Mr. Coffey said that some of them have been threatened over this issue and he will not let the citizens forget who voted to uphold it.

ADJOURN:

There being no further business to be heard, the meeting adjourned at 10:49 a.m.

Larry Kochert -President
Common Council, City of New Albany

ATTEST: _____
Mindy Milburn Deputy City Clerk